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ADDRESS

Of the Board of Managers in the Botkin Impeachment Case.

To the Members of the House of Representatives, and Through You to the People of the State of Kansas:

As a committee of the House of Representatives, duly appointed in February last, charged with the duty of prosecuting before the Senate the articles of impeachment against Theodosius Botkin, judge of the Thirty-second judicial district, we deem it a duty alike to ourselves and to the public that we render to the public, whose servants we are, an account of our stewardship.

Judge Botkin was impeached for drunkenness in public places; drunkenness in his district; both on and off the bench; habitual drunkenness; frequenting whisky joints; and there buying, in violation of law, intoxicating liquors; he was charged with being guilty of oppressive conduct in office, in unlawfully and maliciously imprisoning, without any cause whatever, free American citizens; and lastly, but not least, with corruptly entering into a scheme whereby the treasury of the little city of Springfield, in Seward county, was robbed of over \$5,000.

The articles of impeachment were duly adopted by the House of Representatives in February, and the undersigned were appointed a board of managers on the part of the House to present said articles to the Senate for proper action on the part of that body. The board duly presented the articles, and were ready from thence to proceed with the trial whenever they should be notified by the Senate that that body was ready to receive us and to proceed. The Senate, duly organized as a court, and after proper preliminary proceedings, adjourned until the 20th of April, as it was authorized to do by law.

By the provisions of law, the attorney general of the state became associated with the board of managers in the trial of the impeachment; and while he took an active part in the earlier proceedings, his other duties kept him from assuming that full control of the trial which your committee had hoped for. Your committee, pursuant to custom in such cases, and under authority of the statute, appointed George L. Douglass, of Wichita, and A. M. Mackey, of Topeka, as counsel for the state to assist the attorney general and the board of managers. The respondent appeared in person and was assisted before the Senate by six attorneys, two of whom reside in his own district.

Contrary to the almost unvarying practice in trials on impeachment, the Senate permitted the respondent and his counsel to demand to the articles of impeachment. This proceeding, and the agreements thereon respecting all the questions of law arising upon the articles of impeachment, both as to substance and form, consumed nearly ten days, and resulted in a decision made by the Senate that neither the fourth, fifth nor sixth article stated an im-

peachable offense. The other seven articles were held sufficient at that time to put the respondent upon his defense.

The whole trial, counting from April 20th, occupied thirty-three days—a much longer time than seemed to your committee to be necessary. A large portion of this time was consumed in taking testimony either brought out by the respondent's attorneys in cross-examination of the state's witnesses, or offered originally on the part of the defense; to which the board of managers and their counsel objected as being wholly irrelevant and immaterial. But the Senate admitted a vast amount of testimony which was wholly foreign to the case, or to any question properly in the case. The board of managers had no voice whatever in determining what should or should not be allowed. All the board or their counsel could do was to object, and almost without exception their objections were overruled either by the president of the Senate or by the Senate itself. Again, as a rule, the Senate would adjourn on Friday until the afternoon of the following Monday, notwithstanding from fifty to one hundred witnesses were constantly in Topeka at the expense of the state, thus adding largely to the legitimate costs or expenses of the trial, and affording a pretext for those partisans of the respondent, who seemed incapable of appreciating the gravity or the importance to the public of the trial, for characterizing the impeachment and trial as "a farce." The Senate also permitted a good deal of time to be consumed by abusive political and personal harangues from the respondent's attorneys, who introduced and dwelt upon matters wholly foreign to the case—many matters of a truly political character, intended not only to appeal to the partisan prejudices of the members of the Senate, but to insult and humiliate the board of managers, the witnesses for the state, and all present who might entertain political views differing from those of the majority of the members of the Senate. One of the counsel for the defense was permitted for several hours to outrage public decency, to pour out his vile and abusive insults, and make such an exhibit of himself as should have caused every Senator to hang his head in very shame. We venture the suggestion, that no other judicial tribunal in Christendom, of any grade or degree, ever permitted so shameful an exhibition of vituperation and malignity as was witnessed in the high court of impeachment, sitting in the Senate chamber of the State of Kansas during the three or four hours consumed by one of the attorneys for the respondent. It is not for us, as a committee, to pass judgment upon such conduct. The seal of condemnation will be duly affixed by the intelligent and God-fearing men and women of Kansas alike upon those who brought about such a shameful occurrence, and upon that body of men, who, having the power to prevent it, sat silently by and permitted it.

Let us briefly consider the facts of the case itself. The board of managers, representing the House of Representatives, and through them all the people of Kansas,

were prepared to prove, and did offer to prove by prominent citizens that Judge Botkin had, at different points in this state, been frequently drunk and had engaged in drunken quarrels on the public streets; but the Senate, in its wisdom, held that it was not an impeachable offense for a district judge to get "gloriously drunk" as often as he pleased outside of his judicial district, and it refused to hear any evidence upon this point.

The Senate also decided that it was not an impeachable offense for a district judge to visit and patronize all the whisky joints in his district. There was no joint too low for this judge to visit; no boot-legger too degraded to become the intimate chum and daily companion of this judge; and yet this high court of impeachment solemnly decided that such acts did not constitute "a misdemeanor in office."

The evidence establishes the fact beyond question that Judge Botkin is an habitual user of intoxicating drinks to a fearful extent. As many as thirty witnesses on the part of the state testified to such facts as lead to the belief that whisky and beer have been his common beverage, and that he was, while holding his terms of court, frequently prostrated from their effects; and on cross-examination, thirty-four of his own witnesses testified to having drunk intoxicating liquors with him, some of them so frequently that they could not give any definite idea of the number of times they had seen him drink intoxicants. In one case it was proven, and not denied, that Judge Botkin, in the absence of the proprietor, raised the back window of a drug store "joint" and went in and helped himself and others to whisky; and in another case it was proven by numerous creditable witnesses that he was in bed at a hotel in the day time, and in a drunken stupor for several hours, and with several whisky bottles in the bed with him, while officers of the court and parties having business to be transacted were at the court house waiting for court to be opened.

Upon the testimony your committee believed and still believe that no man who uses intoxicating drinks to the extent proven against the respondent is qualified for the proper discharge of the important and responsible duties pertaining to the high office of district judge. Yet the decision of the state Senate, the high and mighty body elected on a prohibition platform, in a prohibition state, encourages the violation of every provision of the prohibitory liquor law. It condones the offense of drunkenness in a judge elected on the same platform.

On the ninth article, charging oppression in office in unlawfully and maliciously imprisoning free American citizens, the evidence showed that Judge Botkin had, for the purpose of wreaking his vengeance, imprisoned four citizens of this state, without even a shadow of cause; and yet of the thirty-five members of this high court who were present and voting, sixteen voted to acquit, in face of an overwhelming mass of uncontradicted and unimpeached evidence. The four citizens oppressively and illegally ar-

rested and imprisoned by this tyrannical and wicked judge were H. E. Thompson, the editor of the Springfield Republican, C. L. Calvert, a former editor of the same newspaper, John F. Van Voorhis, the chairman of the Seward county Republican central committee, and John R. Garrison. All these men were Republicans. Three of them were residents of the county in which Judge Botkin resides. Two of them, Thompson and Calvert, sought release from Judge Botkin's power and revenge by means of habeas corpus proceedings in the supreme court; and this court only three weeks ago (and while this impeachment trial has been in progress) ordered their discharge, holding and deciding that Judge Botkin's order for their arrest and imprisonment was illegal, oppressive and void for want of jurisdiction. While it is a matter of profound and painful regret that the high court of impeachment did not remove the tyrant and oppressor from office, it is gratifying to know that the oppressed and suffering people of the Thirty-second judicial district can find relief from some of the wrongs they suffer by appeals made to the supreme court of the state. But let it not be forgotten that eighteen Senators deemed the proof of Judge Botkin's cruelty and oppression so plain and conclusive that they voted for his conviction on the ninth article; and of these eighteen Senators, seventeen belong to Judge Botkin's own political party.

The tenth article preferred against Judge Botkin charged him in substance with the systematic robbery of the little city of Springfield, in Seward county. In brief, the proven facts are these: The treasurer of the city of Springfield held nearly \$5,000 of money realized from the sale of city bonds issued by the city officers for waterworks purposes. Under the pretense that the bonds had been illegally issued, and that the city officers had been guilty of a crime, Judge Botkin caused the mayor and several of the councilmen and an attorney to be arrested upon a criminal charge and brought before him for trial or examination. In a civil suit already pending against the mayor and other city officers he had kept the city money in the treasurer's hands by an injunction which he had granted. In this civil action, Mr. J. M. Adams, city treasurer, was one of the defendants. Having put the mayor and a majority of the city councilmen in fear, he appointed City Treasurer Adams a receiver in a civil suit in which Adams was one of the defendants. In appointing this receiver, Judge Botkin was guilty of three high-handed and illegal acts: First, the statute (section 255 of the civil code of Kansas) expressly declares that "no party, attorney or person interested in an action shall be appointed receiver therein." Second, Judge Botkin appointed the receiver "on his own motion, without any application or proof made by anyone for any appointment, a proceeding never before heard of anywhere, and a proceeding which has not a shadow of law, nor do-

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